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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/701,211	11/04/2003	Andreas Derr	WEM-05002	5179
26339	7590	07/26/2005		
PATENT GROUP CHOATE, HALL & STEWART EXCHANGE PLACE, 53 STATE STREET BOSTON, MA 02109			EXAMINER CHANG, YEAN HSI	
			ART UNIT	PAPER NUMBER
			2835	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/701,211	DERR ET AL.	
	Examiner	Art Unit	
	Yean-Hsi Chang	2835	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 65-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Terminal Disclaimer

1. The terminal disclaimer filed on 7/5/05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,665,174 B1 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 65-66, 69-70, 72-73 and 75-77 are rejected under 35 U.S.C. 102(b) as being anticipated by Mehnert (US 5,018,049).

Mehnert teaches a portable electrical control and display device (fig. 1 or 2) comprising: an indicator element (6), a control element (4), a housing (1) that contains said indicator element and said control element, said housing including a transparent protective sight glass (8), and at least one sealing device (2) being cylindrical in shape (shown in fig. 2), that closes said housing in a water-tight manner (see col. 4, lines 21-

Art Unit: 2835

24), said at least one sealing device including one of a plug and ring (shown in fig. 2) which can be pushed into the housing on at least one side, said one of the plug and the ring engaging in the housing when pushed in (see col. 4, lines 18-27) (claims 65 and 69); wherein said indicator element is a visual indicator panel (underneath 6) (claim 66); wherein the housing is at least partially made of a colored material (see col. 3, lines 35-36) and wherein said transparent protective sight glass is connected to the housing in an area of the indicator element (at 7, fig. 1) (claim 70); wherein said housing includes a sealing lip (end portion of housing 1 shown in fig. 1) that engages said at least one sealing device when said sealing devices is pushed into said housing (claim 72); a sleeve (3) that accommodates said indicator element and said control element and supports said housing (fig. 1) (claim 73); wherein said housing is in two parts (8 and 9) that are attached together (shown in fig. 1) (claim 75); wherein said two parts of the housing are attached together in a water-tight manner (see col. 3, lines 37-39) (claim 76); and wherein said sight glass is disposed in one of the parts (part of 8) (claim 77).

4. Claims 78-80, 83 and 86-88 are rejected under 35 U.S.C. 102(b) as being anticipated by Mehnert.

Mehnert teaches a portable electrical control and display device (fig. 1 or 2) comprising: an indicator element (6), a control element (4), a housing (1) that contains said indicator element and said control element, said housing including a transparent protective sight glass (8), a sleeve (3) that accommodates said indicator element and said control element, and at least one sealing device (2) that closes said housing in a

Art Unit: 2835

water-tight manner (see col. 4, lines 21-24), said at least one sealing device including a peripheral groove (near end portion of 8, not labeled, shown in fig. 2) and a matching peripheral ridge (on the end portion of 8) arranged at opposite locations on the housing and the sleeve, wherein when the housing and sleeve are joined together, the ridge engages the groove (claims 78 and 79); wherein said indicator element is a visual indicator panel (shown in fig. 1) (claim 80); wherein the housing is at least partially made of a colored material (see col. 3, lines 35-36) and wherein said transparent protective sight glass is connected to the housing in an area of the indicator element (at position of 7, fig. 1) (claim 83); wherein said housing is in two parts (8 and 9) that are attached together (fig. 1) (claim 86); wherein said two parts of the housing are attached together in a water-tight manner (see col. 3, lines 37-39) (claim 87); and wherein said sight glass is disposed in one of the parts (part of 8) (claim 88).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 65, 67-68, 71, 73-74, 78, 81-82 and 84-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehnert in view of White et al. (US 6,532,152 B1).

Art Unit: 2835

Mehnert teaches a portable electrical control and display device (fig. 1 or 2) comprising: an indicator element (6), a control element (4), a housing (3) that contains said indicator element and said control element, said housing including an opening (7), and at least one sealing device (2) that closes said housing in a water-tight manner (see col. 4, lines 21-24), said at least one sealing device including one of a plug and ring which can be pushed into the housing on at least one side, said one of the plug and the ring engaging in the housing when pushed in (see col. 4, lines 18-27), and a sleeve (1) that accommodates said indicator element and said control element (claims 65, 73 and 78), wherein said housing is made of temperature-resistance material that is resistant to a temperature of at least 70 degrees Celsius (see col. 3, lines 10-11; and metal is considered as temperature resistant to at least 70 degrees Celsius) (claims 71 and 84); and wherein the housing and the sleeve are similar in shape and the housing encloses the sleeve in an essentially form-fitting manner (fig. 1) (claims 74 and 85).

Mehnert fails to teach the housing including a transparent protective sight glass, the indicator element being an acoustic indicator, and the control element being a keyboard.

White teaches a portable electronic control and display device (200, fig. 2) comprising: a housing (202) including an aperture (210) with a transparent protective sight glass (212) (claims 65 and 78); an acoustic indicator (218) (claims 67 and 81); and a control element (220) being a keyboard with at least one keypad (claims 68 and 82).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Mehnert with the device taught by White

Art Unit: 2835

such that the opening of the housing is covered with protective glass for being completely water-tight; and for indicating specifically the types of display element and control element.

7. Claims 89-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehnert.

Mehnert teaches a portable electrical control and display device (fig. 1) comprising: an indicator element (6), a control element (4), a housing (1) that contains said indicator element and said control element, said housing including a transparent protective sight glass (8), a control area portion (area portion at position of 4), wherein said control area portion of the housing is disposed in a corresponding position to said control element and includes at least one component (5) that contacts said control element when said control element is engaged (see col. 3, lines 12-15), and a sleeve (3) that accommodates said indicator element and said control element, said housing including a peripheral ridge (12), wherein, when the housing and sleeve are joined together, the peripheral ridge engages a peripheral groove (13) in the sleeve (claim 89); wherein said housing is made of a softer material than said sleeve (see col. 3, lines 1-11) (claim 90); wherein said ridge forms said groove in said sleeve when said housing and said sleeve are joined together (claim 91); wherein said housing is in two parts (8 and 9) that are attached together (claim 92); wherein said two parts of the housing are attached together in a water-tight manner (see col. 3, lines 37-39) (claim 93); and wherein said sight glass is disposed in one of the parts (on 8) (claim 94).

Mehnert fails to teach the ridge being on the sleeve and the groove being on the housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the ridge and the groove rearranged on the sleeve and the housing, respectively, since it has been held that rearranging parts of an invention involves only routine skill in the art. MPEP §2144.04 VI C.

Response to Arguments

8. Applicant's arguments filed 7/5/05 have been fully considered but they are not persuasive. Applicants argue, regarding claim 65, "(t)he Office Action cites the stopper 2 of Mehnert's device as one of a plug and ring; however, in Mehnert, this stopper 2 is bonded to the inner sleeve 1 by ultrasonic plastic welding. (See col. 4, lines 18 to 28, describing the embodiment of Fig. 1 in relation to the embodiment of Fig. 2.) Applicants submit that the stopper is attached (welded) to the housing and is not such that it can be pushed into the housing as to engage the housing when pushed in as is recited by Applicants with respect to the one of a plug and ring", and "the Office Action cites circuitry 4 of Mehnert as being a control element as claimed by Applicants; however, Applicants respectfully submit that nothing about the circuitry disclosed by Mehnert indicates that is circuitry is utilized as a control element"; regarding claim 78, "(t)he Office Action cites to Fig. 2 as disclosing an unlabelled peripheral groove and cites to the first sleeve part (element 8) as showing an unlabeled 'end lip' which the Office Action suggests is a ridge. Applicants respectfully traverse this conclusion and submit

Art Unit: 2835

that any 'end lip' of element 8 shown in Fig. 2 is not a matching peripheral ridge that is arranged at an opposite location with a peripheral groove and that engages the peripheral groove when the housing and the sleeve are joined together"; regarding claims 65 and 78, "neither Mehnert nor White, taken alone or in combination, teach or fairly suggest at least the features of a portable electrical control and display device including at least one sealing device that closes the housing in a water-tight manner"; regarding claim 89, "the citations do not disclose the peripheral ridge and matching peripheral groove that engage when the housing and sleeve are joined", and "Mehnert does not teach or fairly suggest at least the above noted features concerning a control area portion of the housing as recited by Applicants".

Regarding claim 65, the stopper 2 of Mehnert's device does the function of plugging and sealing, and it may be connected by press fit as stated on col. 4, lines 24-27 of specification of Mehnert; and circuitry 4 providing a switching function of display 6 as stated on col. 3, lines 12-21, may be considered as a control element.

Regarding claim 78, the end portion of element 8 of Mehnert is shaped as a ridge as shown in figs. 1 and 2, and is made engaged with a peripheral groove of the sealing device 2 also shown in figs. 1 and 2; and both Mehnert and White teaches sealing devices for closing the housing in a water-tight manner such as: col. 3, lines 5-10 of Mehnert, and col. 11, lines 45-50 and col. 15, lines 1-23 of White.

Regarding claim 89, the end portion of element 8 of Mehnert is a peripheral ridge and is matching with a peripheral groove of element 2 as shown in figs. 1 and 2; and a control area portion of the housing 1 for control element 4 is shown in figs 1 and 2.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Correspondence

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yean-Hsi Chang whose telephone number is (571) 272-2038. The examiner can normally be reached on 07:30 - 16:00, Monday through Friday.

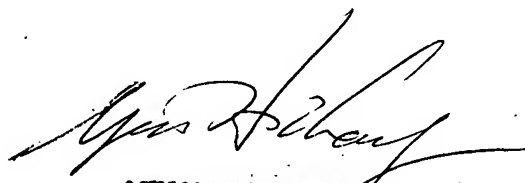
If attempts to reach the examiner by telephone are unsuccessful, the Art Unit phone number is (571) 272-2800, ext. 35. The fax phone number for the organization

Art Unit: 2835

where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8558.

Yean-Hsi Chang
Primary Examiner
Art Unit: 2835
July 23, 2005



YEAN-HSI CHANG
PRIMARY EXAMINER